

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5862 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KEWALRAM LILARAM ASWANI

Versus

UNION OF INDIA

Appearance:

MR JR NANAVATI for Petitioner

MR RC JANI for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/11/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. Under the order dated 10-3-1958 of the Additional Settlement Commissioner, New Delhi, the claim of the petitioner, a displaced person has been verified to Rs.22500/-. Against this order, the petitioner has approached to the Chief Settlement Commissioner, New Delhi in the year 1974. That application was filed by

the petitioner under section 5 of the Displaced Persons (Claims) Supplementary Act, 1954 and the same came to be rejected by the Chief Settlement Commissioner under its order dated 6-6-1974. Then the petitioner filed an application for review of the said order which came to be dismissed on 31st March, 1975.

3. This petition has been filed by the petitioner in the year 1984 and prayer has been made for quashing of the order dated 6th June, 1974. Prayer has also been made for quashing of the order dated 4th April, 1951, but I could not get what for this order is prayed to be quashed and set aside when it is in favour of the petitioner. So the petition has been filed by the petitioner against the order annexure 'C' before this Court after more than 11 years.

4. The counsel for the petitioner has given out an explanation for delay in the manner that a certificate was issued by the Municipal Committee, Badin, Pakistan on 24th January, 1981 in which it is certified that in the year 1947 Badin city's entire area was notified area Committee, and relying on this certificate, the petitioner filed a review application before the Central Government, which came to be rejected under the communication dated 28th July, 1984.

5. I fail to see any justification in this explanation furnished by the counsel for the petitioner for delay. By taking out another document, I do not find any ground for review of the order and much less a ground to challenge the orders which have been passed in the years 1974 and 1958. From reply of the respondents, I am satisfied that there was sufficient material available before the authority against the petitioner and claim of the petitioner to the extent what is claimed, has rightly been rejected. Notation list has been prepared and that has been relied upon. Reliance has also been placed on the document, circular of 26th September, 1956. It is true that that circular was not conclusive but still it was an evidence on the basis of which the claim of the petitioner has been adjudicated and the same has been decided. The petitioner was in fact satisfied with that order and that is the reason that after the order of review passed on 31st March, 1975 no exercise has been undertaken till the date of filing of this special civil application. If we go by the review of the petitioner filed after the certificate dated 24th January, 1981, I find that that too has been filed after more than three years from the date of this certificate.

6. Leaving apart the question of delay, otherwise also on merits I do not find any merits in the prayer of the petitioner for review of the orders only on the basis of some documents which have come into existence subsequently. It cannot be a ground for review of the earlier orders which have been passed on the basis of evidence which was available at the relevant time. Moreover, only on the basis of certificate of 1981, the evidence on which reliance has been placed by the respondents cannot be brushed aside. So if the matter is considered from any angle, I do not find any ground to interfere with the order passed in this case. The authority has not committed any error in declining to review its earlier decision.

7. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated.

zgs/-